

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
FEBRUARY 17, 2006**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on February 17, 2006, beginning at 10:00 a.m. The meeting was tape-recorded and the tape(s) are on file at the ABC Commission in the Legal Division.

**ROLL CALL**

Chairman Douglas A. Fox, Commissioner Mike Joyner and Commissioner John Lyon were present at the meeting.

**MINUTES OF JANUARY 20, 2006 MEETING**

Chairman Fox made a motion to waive the reading of the minutes from the January 20, 2006, meeting into the record. Seconded by Commissioner Joyner. So Ordered. Chairman Fox made a motion to approve the minutes from the January 20, 2006, meeting. Seconded by Commissioner Lyon. So Ordered.

**EXECUTIVE ORDER REGARDING CONFLICTS OF INTEREST**

As required by Executive Order Number One, Chairman Fox asked Commissioner Joyner and Commissioner Lyon if there were any known conflicts of interest or any conditions or facts that might create the appearance of a conflict of interest with respect to any matters on the Agenda. Commissioner Joyner and Commissioner Lyon both stated that they found no conflicts of interest. Chairman Fox stated that he had no conflict.

**I. HEARING CASES - 41 Listed**

Chief Counsel, Fred Gregory stated that Glenn B. Lassiter, Jr., attorney for hearing case #30- Rightway, was present to speak on behalf of his client. Mr. Lassiter stated that this was the third offense for his client in three years and that this was a "Sting Operation" and the beer that was sold was not going to be consumed by an underage person. He went on to state that he felt that sometimes these clerks get confused with cigarette sales and alcohol sales.

Chairman Fox asked Mr. Lassiter if he was saying that the clerk didn't know the difference between a cigarette and a bottle of wine. Mr. Lassiter stated that in most cases when a person tries to purchase alcohol they don't usually have their ID readily available and are asked to provide proper ID. On the other hand you will see 18 and 19 year old come into stores with their ID's available so that they can purchase cigarettes. He stated that he felt that it creates some confusion.

Commissioner Joyner asked Mr. Gregory if the 30-day suspension represented a reduction in the penalty. Mr. Gregory stated that it does not; the penalty is straight by the guideline.

Mr. Lassiter stated that his client was willing to pay an increase in the penalty in order to avoid an active suspension.

Chairman Fox asked Mr. Lassiter how many stores did his client have. Mr. Lassiter stated that he has two convenience stores.

Chairman Fox made a motion to leave the penalty at \$3,000.00, with no active time, upon the stipulation that the employees from both of his stores attend an RASP class within the next 30 days. Seconded by Commissioner Joyner. So Ordered.

Mr. Voravut Thavisin, manager of hearing case #11, Wasabi, was present to speak on behalf of the business. Mr. Thavisin stated that the business placed an order for alcohol on a Thursday with the Wake County ABC Board. The Wake County ABC Board stated that they did not get the order. Mr. Thavisin needed the alcohol for the weekend, so they went to an ABC Store and purchased the alcohol.

Chairman Fox stated that he gave them credit for their honesty. Assistant Counsel, Timothy Morse stated that Wake County ABC Board did confirm that Mr. Thavisin's order was missing from their computer on Friday, but they were going to make available a supplemental pickup on Saturday.

Chairman Fox asked Administrator Mike Herring if the Commission has had problems with the Wake County ABC Board in the past. Mr. Herring stated that we have had problems as far as when temporary permits were issued on a Friday, the Wake County ABC Board is not prepared to sell the permittee alcohol and need a couple days in order to fill the order.

Chairman Fox asked Mr. Thavisin how many employees did he have. Mr. Thavisin stated that there were 15-20 employees. Chairman Fox asked if all 20 employees are involved in alcohol sales. Mr. Thavisin stated that there were only 2 employees involved in alcohol sales, him and another man.

Commissioner Joyner made a motion to reduce the penalty to \$1,000.00 and remove the active suspension upon the stipulation that the employees attend an RASP education class within the next 30 days. Seconded by Commissioner Lyon. So Ordered.

Mr. Dwayne Seiver was present to speak on behalf of 1<sup>st</sup> Offense case #1, Chelsea Penny Store. Mr. Seiver stated that he was a friend of the owner of the store. He went on to state that the underage sale was a mistake. Rene Bonilla, the owner, was very concerned about this violation and has since had classes with the employees and now anyone under the age of 40 years old is carded. Mr. Seiver stated that he spends a lot of time at the business and has observed the clerks asking for ID's. He went on to state that it was an honest mistake.

Chairman Fox made a motion to reduce the penalty to \$500.00 upon the stipulation that the owner and his employees attend an RASP class within the next 30 days. Seconded by Commissioner Lyon. So Ordered.

Mrs. Linda Self, owner of 1<sup>st</sup> Offense case# 15, Missing Link Convenience, was present to speak on behalf of her business. Mrs. Self stated that usually there are two people working in the store at the same time. She went on to state that her sister had just left because she was sick. Mrs. Self said that she was sick with a migraine and she had called her husband to come to the store so that she could go home. She said with migraine headaches it is very hard to focus and concentrate. She looked at the ID and sold the alcohol to the young man. She said that she went to court and the case was dismissed. The agent testified that she had been having trouble running the cash register. Mrs. Self further stated that the store is a family oriented store; very seldom do they get a young person coming in to buy beer or cigarettes. They have signs up in the store saying that it's against the law to buy alcohol or cigarettes if you are underage and you will be reported.

Commissioner Joyner made a motion to reduce the penalty to \$500.00 upon the stipulation that they attend a RASP class within the next 30 days. Seconded by Commissioner Lyon. So Ordered.

Mr. Jehad Jamileh, owner of 1<sup>st</sup> Offense case#16 Stop and Shop, was present to speak on behalf of his business. This case came before the Commission at the January 20, 2006 meeting. Mr. Jamileh stated that his wife, Etaf Jamileh, was in the store at the time of this violation. He stated that his wife's eyesight is not that good; she did not have her glasses. Her English is not much better. He stated that his wife told him that she couldn't see the license.

Chairman Fox stated that the Commission has a signed offer in compromise. Mr. Jamileh stated that he didn't know, he just signed it and sent it in to the Commission.

Assistant Counsel, Ms. Renee Cowick stated that Mr. Jamileh had sent a letter explaining the situation and what had occurred and he thought that he would have gotten a break in the penalty. So he decided that he needed to come to the Commission and explain in person.

Chairman Fox made a motion to reduce the penalty to \$500.00 upon the stipulation that they attend a RASP class within the next 30-45 days. Seconded by Commissioner Joyner. So Ordered.

Chairman Fox made a motion to approve the remaining Offers in Compromise with the exception of hearing cases#11, Wasabi and case#30, Rightway, which had been earlier ratified. Seconded by Commissioner Joyner. So Ordered.

## **II. FIRST OFFENSE CASES – 31 Listed**

The following is a list of first offense violation cases in which Final Agency Decisions were signed by the Chairman on February 17, 2006, pursuant to the Commission's authorizing resolution dated November 8, 2002:

1. Chelsea Penny Store – 861 Williamson Road, Mooresville, NC 28117
2. Bi Lo 93 – 6507 Wilkinson Boulevard, Belmont, NC 28012
3. Lees Food Store 2 – 525 Hwy 70, Swannanoa, NC 28778
4. Xpress Stop – 9731 Idlewild Road, Mint Hill, NC 28227
5. Sav Mor 18 – 891 Patton Avenue, Asheville, NC 28806
6. Sams Mart 34 – 629 Woodlawn Road, Charlotte, NC 28210
7. Petro Express 30 – 2008 West Catawba Avenue, Cornelius, NC 28031
8. Payless Food Mart – 10 Stockton Road, Weaverville, NC 28787
9. M and J Foodmart – 118-A Tom Hunter Road, Charlotte, NC 28213
10. Go Grocery Outlet 4 – 1207 16<sup>th</sup> Street NE Springs Road Plaza, Hickory, NC 28601
11. Fast Break – 840 Emma Road, Asheville, NC 28806
12. El Ranchito – 3110-112 New Bern Avenue, Raleigh, NC 279610
13. Raceway – 1907 Weldon Road, Roanoke Rapids, NC 27870
14. Petro Express 41 – 6441 Wilkinson Boulevard, Belmont, NC 28012
15. Missing Link Convenience – 3650 Hwy 15, Oxford, NC 27565
16. Stop and Shop – 610 North Houghton Street, Williamson, NC 27892
17. Germanton Grocery – 3001 Germanton Road, Germanton, NC 27019
18. Roxboro Road B P – 2211 North Roxboro Road, Durham, NC 27704
19. Lowes Foods 181 – 321 W B McLean Drive, Cape Carteret, NC 28584
20. Food Lion 1360 – 2201 Westchester Drive, High Point, NC 27262
21. Fuji Japanese Restaurant – 133 East Parris Avenue, High Point, NC 27262
22. Food Lion 769 – 8100 Idlewild Road, Charlotte, NC 28212
23. Food Lion 106 – 2526 Little Rock Road, Charlotte, NC 28214
24. Express Mart – 7833 South Boulevard, Charlotte, NC 28210
25. Tommys Self Service – 604 East Grimes Avenue – High Point, NC 27260
26. Shoals Club – 100 Station House Way, Bald Head Island, NC 28461
27. Sams Mart 782 – 1401 North Main Street, High Point, NC 27262
28. Henry's Quick Stop – 723 Durham Road, Roxboro, NC 27573
29. Dave and Busters Grand Sports Café – 8361, Concord Mills Boulevard, Concord, NC 28027
30. Greens Market – 604 First Avenue SW, Hickory, NC 28602

Chairman Fox made a motion to approve the Offers in Compromise for the First Offense cases with the exception of 1<sup>st</sup> Offense cases#1 Chelsea Penny Store, case#15 Missing Link Convenience and case#16 Stop and Shop, which had been earlier ratified. Seconded by Commissioner Joyner. So Ordered.

### **III. RESOLUTION FOR THE CITY OF GREENSBORO ABC BOARD TO MANAGE THE TOWN OF SUMMERFIELD ABC STORE IN ACCORDANCE WITH G.S. 18B-703(h).**

Administrator Michael Herring addressed the Commission concerning the Greensboro ABC Boards request to merge with the city of Summerfield and manage the Summerfield ABC stores. The Summerfield town council approved the merger with the City of Greensboro ABC Board on December 6, 2005. On January 24, 2006, the Greensboro ABC Board approved the merger and on February 7, 2006, the Greensboro City Council adopted the merger resolution between the two cities.

Chairman Fox made a motion to adopt the resolution. Seconded by Commissioner Joyner. So Ordered.

### **IV. OTHER BUSINESS**

Mr. Herring presented the Commission with an activity report on the North Carolina ABC Commission for the month of January 2006. The permit division has received 526 applications for ABC permits that is up about 10% from January 2005. They have issued 1217 permits and that is up 11.75% from January 2005. The legal division has received 161 violations and that is down about 11% from January 2005. The product compliance division has approved 455 new wines and that is down about 16% from January 2005. They have also approved 12 new beers and that is down about 29% from January 2005. The Commission took in \$406,117.75 that went to the general fund. The warehouse shipped 293,776 and that is up about 13% from January 2005. The education division has trained 43 businesses with 270 participants and 21 ABC Boards have been contacted to provide training. The education division has started a program to educate and train military installations. Seymour Johnson AFB and Fort Bragg have been contacted. Of the 161 violations that were received in January 2006, 108 permittees have been contacted by the education division for training. The education division has also visited some universities and grade schools.

The High Point ABC Board report is now online.

With no further business, the meeting adjourned.

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Douglas A. Fox  
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by

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Tiffany Goodson, Legal Division